

Response

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Serial No.: 10/828,686

Confirmation No.: 4467

Filed: 21 April 2004

For: SYSTEMS AND METHODS FOR FORMING STRONTIUM- AND/OR BARIUM-CONTAINING LAYERS

Remarks

The Office Action mailed September 15, 2005 has been received and reviewed. No claims having been added, amended, or canceled herein, the pending claims are claims 61-114.

The Examiner indicated that claims 1-60 are withdrawn from consideration as being drawn to a non-elected invention (page 2 of the Office Action mailed September 15, 2005). Applicants wish to correct the record to show that claims 1-60 were canceled in the Preliminary Amendment filed with the present application on April 21, 2004. Appropriate correction is requested in the next Official Communication.

In addition, page 1 of the Office Action mailed September 15, 2005 indicates that claims 61-112 are pending and rejected. Because claims 113-114 have not been canceled, Applicants respectfully submit that claims 61-114 are currently pending. Appropriate correction is requested in the next Official Communication.

Reconsideration and withdrawal of the rejections are respectfully requested.

Restriction Requirement

In the Office Action mailed May 4, 2005, the Examiner required restriction to one of the following inventions under 35 U.S.C. §121: Group I: claims 61-112 drawn to a method; and Group II: claims 113 and 114 drawn to an apparatus. Applicants elected, without traverse, Group I (claims 61-112), drawn to a method, in the Response to Restriction Requirement submitted May 26, 2005.

However, the Examiner now indicates that claims 61-114 are rejected under the judicially created doctrine of obviousness-type double patenting (page 2 of the Office Action mailed September 15, 2005). Applicants are herein interpreting the rejection of claims 113 and 114 as an indication that the Examiner has reconsidered and withdrawn the Restriction Requirement issued in the Office Action mailed May 4, 2005, and that claims 61-114 are under consideration.

In the event that claims 113 and 114 were included in the obviousness-type double patenting rejection in error, the Examiner is requested to clearly indicate on the record in the

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next Official Communication that claims 113 and 114 remain withdrawn from consideration as being drawn to a non-elected invention under 35 U.S.C. §121.

Obviousness-Type Double Patenting Rejection

Claims 61-114 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-60 of U.S. Patent No. 6,730,164.

Submitted herewith is a Terminal Disclaimer which, Applicants submit, is in compliance with 37 CFR 1.321(c), and thereby obviates the Examiner's double patenting rejection.

Summary

It is respectfully submitted that all the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted by
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December 5, 2005
Date

By: [Signature]
Loren D. Albin
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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 5th day of December, 2005, at 3:28pm (Central Time).

By: [Signature]
Name: Sam Gebhardt